IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 523 OF 2006

Capt.(Retd.) Madhukar A.
Sheldekar, major of age,
resident of House No.2/267/A,
Dongarpur, Naikawaddo,
Calangute – Goa. ... Petitioner

versus

1. The Secretary,
   Village Panchayat of Calangute,
   having his office at Calangute,
   Bardez – Goa.

2. Shri Eddie Rodrigues,
   major of age,
   resident of Dongarpur,
   Naikawaddo,
   Calangute – Goa.

3. The Deputy Director
   of Panchayats,
   North Goa,
   having his office at
   Junta House, 4th Floor,
   Panaji – Goa. ... Respondents

Mr. A. V. Nigalye, Advocate for the Petitioner.

Mr. P. A. Kamat, Advocate for the Respondent No. 1.

Ms. Winnie Coutinho, Government Advocate for the Respondent No.3.

Mr. J. P. Mulgaonkar, Advocate for the Respondent No.2.

CORAM : S. A. BOBDE &
N. A. BRITTO, JJ.

DATE : 2ND APRIL, 2007.

ORAL JUDGMENT

Rule returnable forthwith. Heard by consent.

2. The Petitioner has moved this Court for a direction to the Director of Panchayats to implement the Order dated 29-11-2004 by which the Respondent No.1 has been directed to demolish the construction of his compound wall made by the Respondent No.2.

3. Ms. Winnie Coutinho, the learned Government Advocate for the Deputy Director of Panchayats points out the letter dated 6-10-2005 by which the application dated 21-12-2004 by which the Sarpanch has pointed out to the Deputy Director that there is a permission for the compound wall in favour of the Respondent No.2 dated 16-2-2002. Therefore, this Order has not been implemented.

4. It is interesting to note that this permission was not brought to the notice either by the Respondent No.1 or by the Respondent No.2 who were both parties to the dispute before the Deputy Director. In any case, the Order dated 29-11-2004 has neither been modified nor set aside by any authority. Admittedly, there is no power of review vested in the Deputy Director of

Panchayats.

5. In the circumstances, we are of the opinion that the Order will have to be implemented unless it is set aside or modified by any authority. Mr. J. P. Mulgaonkar, the learned Counsel for the Respondent No.2 submits that the Respondent No.2 intends to file an appeal or take other steps for regularizing the compound wall.

6. In the circumstances, we consider it appropriate to make the following Order. In case the Respondent No.2 does not file an appeal or does not apply for regularization then they shall demolish the construction of the compound wall within fifteen days. It is needless to say that the order of demolition will not be given effect to if it is set aside in appeal or regularized.

7. The appeal and the application for regularization shall be decided on merits in accordance with law and after hearing the petitioner.

8. Rule disposed of.

S. A. BOBDE, J.

N. A. BRITTO, J.

RD